

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Removal of an Outdoor)
Sign Owned or Controlled by Richard Bates,)
d/b/a The Longhorn Ranch)

Case No. 95-H-913

FINAL DECISION

By letter dated December 29, 1994, the Wisconsin Department of Transportation ordered the removal of a sign owned or controlled by Richard Bates, d/b/a The Longhorn Ranch. By letter dated January 23, 1995, Richard Bates requested a hearing to review the removal order. Pursuant to due notice a hearing was held on July 27, 1995 in Elkhorn, Wisconsin. Mark J. Kaiser, Administrative Law Judge, presided.

In accordance with §§227.47 and 227.53(1)(c), Stats., the PARTIES to the proceeding are certified as follows:

Richard Bates, petitioner
W2565 Krueger Road
Lake Geneva, WI 53142

Wisconsin Department of Transportation, respondent, by

Attorney John Sobotik
Office of General Counsel
P.O. Box 7910
Madison, WI 53707-7910

The administrative law judge issued a proposed decision on August 22, 1995. No comments on the proposed decision were received. The proposed decision is adopted as the final decision in this matter.

Findings of Fact

The Administrator finds:

1. Richard Bates owns and manages the Longhorn Ranch which is located at W2565 Krueger Road, Lake Geneva, Wisconsin. Mr. Bates has arranged to paint a message on the roof of a house located along State Trunk Highway 120 (STH 120), 75 feet south of the intersection with Buckby Road. The message painted on the roof is "Longhorn Ranch" with a directional arrow painted below the message.
2. The message was painted on the roof of the house in August, 1993. The message constitutes a sign according to the definition contained at §84.30(2)(j), Stats. The subject sign is an off-premise sign. No sign permit was applied for or issued for the subject sign. The sign is not eligible for a permit at its present location because it is within 300 feet of an intersection.

3. State Trunk Highway 120 is a non-freeway federal-aid primary highway. The sign is located in the adjacent area along STH 120 and is visible from the main-traveled way of STH 120. The area where the sign is located is not within an incorporated village or city and is zoned agricultural.
4. The Department of Transportation issued a sign removal order to Richard Bates on December 29, 1994.

Conclusions of Law

The Administrator concludes:

1. The message painted on the roof of the house constitutes a sign pursuant to §84.30(2)(j), Wis. Stats.
2. Pursuant to §Trans 201.07, Wis. Adm. Code, a sign permit is required to erect a sign along STH 120 after March 18, 1972.
3. Pursuant to §Trans 201.06(1), Wis. Adm. Code, the subject sign is not eligible for a permit at its present location because it is less than 300 feet from an intersection.
4. Pursuant to §§84.30(18) and 227.43(1)(bg), Wis. Stats., the Division of Hearings and Appeals has the authority to issue the following order.

Order

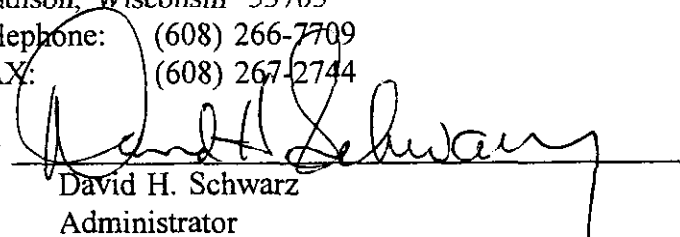
The Administrator orders:

The sign removal order issued by the Department of Transportation on December 29, 1994, is affirmed.

Dated at Madison, Wisconsin on September 11, 1995.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
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By


David H. Schwarz
Administrator